



STAFF REPORT

RESOLUTION AUTHORIZING AN AMENDMENT TO CITY ATTORNEY CONTRACT

Honorable Mayor and Council Members:

Summary

Jean Savaree resigned as City Attorney and the City Council directed staff to negotiate an amended contract with Marc Zafferano of the same firm as Interim City Attorney. Staff recommends Council approved the attached resolution amending the city attorney contract. Also attached is the proposed change in wording of the contract.

Background

The City of Belmont has used the firm of Aaronson, Dickerson, Cohn and Lanzone for city attorney services for many years. In 1995, Jean Savaree of that firm was named City Attorney for Belmont. In 2003, the retainer was adjusted to \$7,165 per month and non-retainer services are billed at \$170 per hour. In addition, the contract provides for health and retirement benefits for the City Attorney.

The City Attorney reviews all contracts, contract specifications, leases, JPA agreements and MOU's to determine their legal sufficiency. The attorney also drafts numerous documents for staff and Council review, including easements, deeds, right of entry agreements, hold harmless agreements and releases. Additionally, Public Records Act requests, subpoenas and claims are directed to the City Attorney's office for review and/or response. The City Attorney drafts resolutions, ordinances and associated staff reports as requested by Department Heads, the City Manager and/or the City Council. Periodic reviews of City policies and ordinances are conducted to determine if amendments are needed to comply with current law. Memos are provided to staff and the City Council on a regular basis to report on recent developments in statutory or case law so that the City will proactively address new issues and legal requirements.

The services covered by the retainer include attendance at all regular and special City Council meetings and Planning Commission meetings. Additionally, the City Attorney attends bi-weekly Senior Management Team meetings held at City Hall. The City Attorney is also available to meet with Department Heads and staff members whenever necessary. The City Attorney also communicates through e-mail and telephone, on a daily basis, with Department Heads or staff members, on a wide variety of legal issues raised by all City departments.

Per the retainer, the City Attorney's office also provides two Deputy City Attorneys who are available to assist City staff and/or Council whenever necessary. The City Attorney's office also

provides, pursuant to the retainer, all secretarial assistance necessary to accomplish the above-referenced tasks. The firm also employs a paralegal whose work is not separately billed to the City. Additionally, the retainer covers all costs associated with the maintenance of the City Attorney's office space, supplies and equipment including a computer system, which has Westlaw research capability, and a full service law library.

Non-retainer work includes litigation, representation of the City at administrative hearings and special projects or cases that require extensive research.

Discussion

Prior to the resignation of Ms. Savaree, the City Council initiated a discussion of whether it wanted to have an in-house attorney or continue to contract for services. A report on that issue was brought to Council in January, but no decision has been made. As such, the Council desires to continue with the services of Aaronson, Dickerson, Cohn and Lanzone at this time and appoint Marc Zafferano of the firm as the Interim City Attorney until a long-term direction for city attorney services is determined. At the same time, Council no longer desires to pay health and retirement benefits to the City Attorney.

Staff was directed to negotiate with Mr. Zafferano a revised contract that adjusted the retainer to reflect the elimination of benefits. As such, it is recommended the retainer be increased to \$7,717 per month. This is the monthly equivalent of the total personnel costs budgeted in the current year.

Fiscal Impact

There is no fiscal impact to this action. The revised contract amount is consistent with the authorized FY05 budget.

Recommendation

It is recommended that the City Council approve the resolution amending the City Attorney's contract to name Marc Zafferano as Interim City Attorney.

Alternatives

1. Decline to authorize this amendment.
2. Propose alternative contract amendment language.

Public Contact

This matter has been agendized as required by the Brown Act.

Attachments

- A. Resolution authorizing contract amendment
- B. Proposed contract language

Respectfully submitted,

Daniel Rich
Interim City Manager

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELMONT
AUTHORIZING AN AMENDMENT TO THE CONTRACT
FOR CITY ATTORNEY SERVICES**

WHEREAS, Jean B. Savaree has resigned as City Attorney; and

WHEREAS, the City Council wishes to amend the contract for services and appoint Marc L. Zafferano as Interim City Attorney, as reflected in Exhibit A.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Belmont hereby authorizes and directs the City Manager to execute said Amendment.

* * * * *

I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the City of Belmont at a regular meeting thereof held on February 22, 2005 by the following vote:

AYES, COUNCILMEMBERS: _____

NOES, COUNCILMEMBERS: _____

ABSTAIN, COUNCILMEMBERS: _____

ABSENT, COUNCILMEMBERS: _____

CLERK of the City of Belmont

APPROVED:

MAYOR of the City of Belmont